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Judicial Education and Training in Asia and the Pacific

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JUDICIAL EDUCATION AND TRAINING IN ASIA AND THE PACIFIC

*Honorable J. Clifford Wallace**

I. JUDICIAL EDUCATION SURVEY CHART.....	851
II. GENERAL OBSERVATIONS	852
III. FUTURE OF JUDICIAL EDUCATION	854
A. <i>Introduction</i>	854
1. Establish Specific Goals	854
2. Identify the "Roadblocks" to Achieving Your Goals ...	855
B. <i>Characteristics of Effective Judicial Education</i>	856
1. Organized Structure	857
2. Integrated Curriculum	857
3. Committed Administrative Leadership and Control	858
4. Modern Learning Methods	859
5. Faculty	861
6. Adequate Resources	861
7. Program Evaluation	864
CONCLUSION	864

Judicial education and training is a relatively recent phenomenon, both in the United States and internationally. Most of the world's formal judicial education and training programs originated in the last fifteen to twenty years—some with permanent facilities, faculty, staff, and resources—to train new judges and provide continuing education and training of experienced judges.¹ Such programs can provide invaluable assistance to the judiciary in its essential role of administering justice and resolving disputes.

* Senior Judge and former Chief Judge, United States Court of Appeals for the Ninth Circuit. The author speaks only for himself and has not sought for or received the views of his court.

This article is based on an address given before the Conference of Chief Justices of Asia and the Pacific, Seoul, Korea, September 1999, including survey data regarding judicial education and training in the Asia/Pacific region compiled in preparation for that address. The author attended the Conference by invitation and as Senior Adviser for Judicial Administration to The Asia Foundation. The author thanks those Asian and Pacific countries that completed and returned the survey. The result of the survey has been invaluable in preparing materials to benefit the Asia/Pacific region and beyond.

1. See generally Paul M. Li, *How Our Judicial Schools Compare to the Rest of the World*, JUDGES J., Winter 1995, at 17–18, 47 (giving commencement dates for judges' schools in various countries in North America, Latin America, Europe, Asia, Pacific, and Africa).

Like their counterparts throughout the world, countries in the Asia and Pacific region are involved in judicial education and training.² This region constitutes a wide variety of countries with varying types of legal systems. The size of their judicial branches ranges from very small to very large. Likewise, some countries have very well-developed judicial education and training programs, while other nations are just at the beginning stages of developing such programs.

In order to understand the status of judicial education and training programs in the Asia/Pacific region, a survey was distributed prior to the 1999 Conference of Chief Justices of Asia and the Pacific (1999 Conference).³ The survey was intended to gather information to facilitate discussion of judicial education and training in the Asia/Pacific region to the benefit of all countries in the region, regardless of the current development of their judicial education and training programs. In addition, the information compiled may benefit countries in other regions to start or improve their own judicial education and training programs.

This article first explains the chart in Appendix II, which summarizes important parts of the survey responses. Then, some general observations are made based on the results of the survey illustrating the significance of the compiled data. Finally, some recommendations are made, based upon the author's and others' experience,⁴ about the future direction of judicial education and training programs as it relates to establishing or reforming such programs in the Asia/Pacific region and beyond.

Although judicial education and judicial training are analytically separate functions,⁵ there is no need to differentiate in this article. Thus, my use of "judicial education" includes "judicial training."

2. See *id.* at 17–18, 47–48.

3. See *infra* Appendix I. For general information about the Conference of Chief Justices of Asia and the Pacific, see *LAWASIA Biennial Conferences of Chief Justices of Asia and the Pacific: Brief Background and Overview*, LAWASIA, at <http://www.octa4.net.au/lawasia/chief.html> (last visited Oct. 30, 2000).

4. See generally Charles S. Claxton, *Characteristics of Effective Judicial Education Programs*, 76 JUDICATURE 11 (1992); Li, *supra* note 1. Claxton and Li are both frequently mentioned judicial education consultants. See Claxton, *supra*, at 14; Li, *supra* note 1, at 18.

5. See J.A. Dowsett, *Judicial Education* ("The expression 'education' is more properly used to describe much broader programmes of intellectual, physical and moral development than are properly described by the word 'training,' which implies preparation for the narrower requirements of a specific task or range of tasks."), <http://www.law.monash.edu.au/JCA/dowsettpaper.html> (last visited Oct. 30, 2000).

I. JUDICIAL EDUCATION SURVEY CHART

The survey located in Appendix I was sent to the chief justice of each country in the Asia/Pacific region prior to the 1999 Conference.⁶ The countries listed in Appendix II responded.

The first set of columns records the number of judges in each participating nation. If a country indicated that a specified number of judges were "visiting" or non-resident (nr), such is indicated in the chart. Otherwise, the number is as provided in response to the survey.

The second set of columns indicates the extent of the established organization, if any, for judicial education in each country. This data comes from question 2 of the survey. A "Y" (Yes) indicates that a nation has a separate organization for educating judges, and a "N" (No) indicates that there is no separate organization. The number of administrative (non-teaching) staff and the number of teaching staff is identified. Whether or not each country has a permanent judicial education facility or building is indicated with a "Y" or "N."

The third set of columns provides some indication of teaching resources available to judges in each country from questions 4 and 5 in the survey. The first sub-column indicates whether the country produces written judicial aids, and the second, whether it produces "bench books" to assist the judges. The next two sub-columns indicate whether the country records prior educational seminars and whether it has an audio/visual library for educational purposes.

The fourth set of columns indicates what organized judicial education occurs in each country. This data comes from questions 7 through 10 of the survey. The sub-columns represent initial education for judges with less than general jurisdiction, trial judges with general jurisdiction, and appellate judges. The final sub-column indicates whether that nation provides education during the judge's career.

6. These countries include: Commonwealth of Australia, People's Republic of Bangladesh, Negara Brunei Darussalam, Union of Burma, Kingdom of Cambodia, People's Republic of China, Republic of the Fiji Islands, Territory of French Polynesia, Territory of Guam, Hong Kong Special Administrative Region, Republic of India, Republic of Indonesia, Japan, Republic of Kazakhstan, Republic of Kiribati, Republic of Korea, Kyrgyz Republic, Lao People's Democratic Republic, Malaysia, Republic of Maldives, Republic of the Marshall Islands, Federated States of Micronesia, Mongolia, Republic of Nauru, Kingdom of Nepal, Territory of New Caledonia and Dependencies, New Zealand, Islamic Republic of Pakistan, Independent State of Papua New Guinea, Republic of the Philippines, Russian Federation, Independent State of Samoa, Republic of Seychelles, Republic of Singapore, Solomon Islands, Democratic Socialist Republic of Sri Lanka, Kingdom of Thailand, Kingdom of Tonga, Republic of Uzbekistan, Republic of Vanuatu, Socialist Republic of Vietnam. *See* Letter from Chambers of Chief Justice of Western Australia to Chambers of Judge J. Clifford Wallace (Oct. 14, 1998) (on file with author).

The final two columns indicate who are the primary trainers in each country and what branch of government has primary control over judicial education programs. The information for "trainers" comes from question 10.c and 13. The data regarding "control" is from question 16 of the survey.

Throughout the chart, if an answer is left blank on the survey, the corresponding cell of the chart is left blank.

II. GENERAL OBSERVATIONS

The countries that participated in the survey can generally be considered in two basic groups: (1) Those with a relatively large judicial system (150 judges or more); and (2) those with a relatively small judicial system (less than 150 judges). By examining the data, several generalizations concerning these two groups are obvious.

Generally, those countries with small judicial systems conduct little judicial education and have no separate organization for educating judges. While most of these countries did not indicate on the survey whether they had plans for organized judicial education in the future, some of these countries appear to be at a stage of transition in developing a judicial education program.⁷ Additionally, countries with smaller judicial systems generally produce no written resources for judges and do not record (in either audio or video format) the judicial education that does occur for future reference.

Generally, those nations with larger judicial systems are characterized by having established organized education for their judges. These programs appear to range from well established organizations, such as can be found in Australia, Korea, and Thailand, to countries still developing their educational program, such as Lao PDR, or whose program may be in a state of transition, such as indicated by Nepal. For the most part, these organized programs are conducted in permanent facilities set aside especially for judicial education.⁸ Additionally, these larger judicial systems are characterized by producing written judicial aids and

7. To state a few examples, the Solomon Islands has indicated that they have "just set up a Continuing Judicial Education Council with a view to establishing training and educational programme for judges." Likewise, Fiji stated that a "Judicial Education Committee has been appointed to plan and coordinate training for judges, magistrates and court staff." Similarly, in Lao PDR the "Ministry of Justice is on the way to establish [a] 'Judicial Training Institute.'"

8. The exceptions are Indonesia, Bangladesh, New Zealand, and Kiribati, with Malaysia expecting permanent facilities in 2000.

"bench books," as well as recording prior judicial education seminars for future use.

In addition to size, some judicial education experts, such as Paul Li, former Executive Director of the California Center for Judicial Education, posit that judicial education programs vary depending upon the type of legal system involved, i.e., common or civil law.⁹ For example, Li states, in most common law countries, the responsibility to oversee judicial education primarily is placed on the courts, while a Ministry of Law or Justice controls judicial education in most civil law countries.¹⁰ Similarly, according to Li, common law countries, such as Australia, identify judges as the primary trainers for continuing judicial education courses; however, civil law countries, such as France, list judges as a minority percentage of trainers for continued education, and the primary trainers are "sociologists, philosophers, physicians, accountants, and lawyers."¹¹ Li also suggests that common law countries tend to use "modern participatory learning methods," while civil law countries "follow the law school model" and the "scope of their courses tends to be limited to general principles of law."¹²

Li's generalizations about the differences in judicial education programs between common law and civil law jurisdictions may have some overall basis, but my view, supported by the data in the survey, is that these distinctions, at least in the Asia/Pacific region, are decreasing or disappearing as countries adopt effective principles of judicial education, regardless of their underlying legal system. For example, while Li states that civil law countries give little attention to continuing judicial education,¹³ Korea and Thailand (both civil law jurisdictions) have established continuing education programs for experienced judges to compliment their existing programs for new judges.¹⁴ Furthermore, in contrast to Li's general observation that in "civil law countries, the judges' schools fall under the ministries of justice,"¹⁵ several civil law countries (e.g., Indonesia, Japan, Korea, and Thailand) indicated that their education programs are controlled by the court.¹⁶ Likewise, some common law countries (e.g., Philippines, Pakistan, and Australia) have initial education for new judges,¹⁷ despite Li's general conclusion that common law

9. See Li, *supra* note 1, at 17-18.

10. *Id.* at 47-48.

11. *Infra* Appendix II; see also Li, *supra* note 1, at 17-18.

12. Li, *supra* note 1, at 48.

13. See *id.* at 17.

14. See *infra* Appendix II.

15. Li, *supra* note 1, at 47.

16. See *infra* Appendix II.

17. See *id.*

countries focus on continued education, such as in-service training, and focus very little on pre-service education.¹⁸ Finally, the majority of trainers are judges in some civil law countries, such as Korea and Japan,¹⁹ although Li found that the primary judicial trainers in civil law countries are non-judges.²⁰

One important finding in the survey escapes characterization by judicial size or legal system: most countries, even some with permanent judicial education facilities, indicated that they do not maintain a library of judicial education materials, including audio/visual resources. Only some states in India, France (whose judicial system encompasses Papeete), Australia, Malaysia, and New Zealand have judicial education libraries.

III. FUTURE OF JUDICIAL EDUCATION

The observations in Part II help provide some indication of where each nation in the Asia/Pacific region has been in providing judicial education and the direction in which each country is currently moving. With this background, I now turn to some observations and recommendations concerning providing effective and efficient education to the judges in this region. These recommendations are based upon my own experience, as well as the writings of judicial educators. My experience is that general principles of effective judicial education do not depend on a particular type of underlying legal system to be effective. Rather, successful judicial education focuses on common principles applicable to all countries, whether large or small, or based on civil or common law.

A. Introduction

1. Establish Specific Goals

The first step that a country must make in either establishing or improving upon an established judicial education program is to set specific goals based on principles of effective judicial education. These goals must be directed toward achieving the predetermined purpose of the program.²¹

18. See Li, *supra* note 1, at 17.

19. See *infra* Appendix II.

20. See Li, *supra* note 1, at 17.

21. Claxton proposes that we must expand our purpose from asking the question, "What do judges need to *know*?" to instead asking the question "What do judges need to *know*, and what do they need to be able to *do*?" Claxton, *supra* note 4, at 12 (internal quotations omit-

2. Identify the "Roadblocks" to Achieving Your Goals

A determination should be made not only where judicial education should be in the future, but what roadblocks may have impeded accomplishing goals in the past. Thus, those roadblocks should be addressed and avoided in the future. While nearly all of the responses to the survey indicate that each nation agrees that judicial education is important, most of the countries with relatively small judicial systems have no organized educational programs for their judges.²² A few possible "roadblocks" to establishing organized programs in those countries are evident from the survey responses.

Perhaps the most frequently mentioned impediment to organized judicial education is lack of resources and lack of funding. Certainly, when a judicial system is small, the cost per judge of providing independent organized education may be prohibitive.²³ Additionally, asking a busy judge to find time for education can prove challenging.²⁴ Lack of resources requires judicial education programs to be creative—a topic addressed later.²⁵

Another impediment to organized judicial education is prohibitive public policy, tradition, or the erroneous perception that judicial education is not needed. For example, one Asian/Pacific nation has a policy that only nationals may represent that country at international meetings, such as the Conference of Chief Justices of Asia and the Pacific. Consequently, the Chief Justice of that country, a non-national, will miss opportunities at international conferences to participate in the discussion and development of ideas that could assist the country he represents. Another country responded to the survey that, despite the absence of a separate organization for educating judges, its judiciary is consistently ranked high in terms of its "legal framework" and "quality of justice."

ted). As Claxton explains, this "broader definition [of purpose] suggests a highly action-oriented approach that is designed to help judges develop the *abilities* they need to do a good job as they move through their careers." *Id.*; see also LIVINGSTONE ARMYTAGE, EDUCATING JUDGES 156–58 (1996).

22. See *infra* Appendix II.

23. As is discussed *infra* Part III.B.6, that cost may be reduced by efficiently pooling resources among smaller nations, and properly utilizing modern technologies to share audio, video, written, and other multimedia resources in a cost effective manner.

24. See Australian Law Reform Commission, *Discussion Paper 62: Review of the Federal Civil Justice System*, § 3.85 (1999) ("The time taken for education is time away from active case management or decision making."), <http://www.austlii.edu.au/au/other/alrc/publications/dp/62> (last visited Oct. 30, 2000); Australian Law Reform Commission, *Report No. 89: Managing Justice*, § 2.190 (1999) ("[It is] sometimes difficult to convince judges to make time in their busy schedules for judicial education . . ."), <http://www.austlii.edu.au/au/other/alrc/publications/reports/89> (last visited Oct. 30, 2000).

25. See *infra* Part III.B.6.

Clearly, however, this does not mean that a judge's efficient and fair adjudication of cases could not improve even more with effective education.

If the education that is currently provided to the judges of the Asia/Pacific region is to improve, all must necessarily be willing to make changes. There must first be agreement that there is room for improvement (i.e., judges are not perfect); only then will the necessary changes for improvement be made.²⁶

A third possible impediment to effective judicial education is that current judges in many smaller nations may feel unqualified to act as teachers due to their own lack of education. This position, however, ignores the value of pure "experience" as an asset in educating new and less experienced judges. There is, of course, an important place for educating judges on general principles of law. More importantly, I suggest, a full curriculum for judicial education must include a discussion on fine tuning of trial and decision-making skills, case management, avoiding bias, mediation, and a number of other topics that are more effectively taught by an experienced judge (even one without formal judicial education) than by an "expert" or "professor" who usually does not have practical experience and may be more inclined to "lecture" than to "engage" the learners. Thus, in reforming or establishing a judicial education program, countries must rely upon the invaluable resource of judicial experience to provide complete education for judges.²⁷

B. Characteristics of Effective Judicial Education

Several characteristics of effective judicial education are identifiable. Each one must be considered when reforming, developing, or initially establishing an independent judicial education program, in order

26. The words of fellow judges are instructive in this regard. In Chief Justice Gleeson of Australia's words, "Judicial education is no longer seen as requiring justification. We are past the stage of arguing about whether there should be formal arrangements for orientation and instruction of newly-appointed judges and magistrates, and for their continuing education. Of course there should." Christopher Roper, *Proposed Australian Judicial College*, 1-2 (1999), http://www.law.monash.edu.au/JCA/judicial_college.pdf (last visited Oct. 30, 2000). The Lord Chancellor of Britain, Lord Irving of Lairg, stated: "Training and development are now recognised as an essential part of modern professional life . . ." *Id.* Likewise, Justice Durham of the Utah Supreme Court remarked: "We must be prepared to deal with new ideas and terminology, some of which may be intimidating. It is imperative that we bring the best in educational theory and practice to the judicial system if we are to make it more responsive and responsible, humane and fair." Paul Nejelski, *Symposium Seeks New Approaches to Judicial Education*, 74 JUDICATURE 104, 105 (1990).

27. See Dowsett, *supra* note 5 (stating judicial educators "should generally be experienced and respected judges"); Roper, *supra* note 26, at 14 (numbering "judge-delivered" instruction as a fundamental theme of effective judicial education program).

to avoid common roadblocks to a successful program. Thus, goals should be made with these characteristics in mind in order to move each country towards providing more effective judicial education.

1. Organized Structure

The first characteristic of an effective judicial education program is an organized structure designed according to the needs and resources of each individual country and directed at achieving the specific goals of the program.²⁸ Furthermore, this structure should be separate from schools for public prosecutors, attorneys, and the court support staff. A separate structure will facilitate a curriculum that is more pointed to the duties of the judge, rather than courses limited to general principles of law common to all related professions.²⁹

2. Integrated Curriculum

Effective curriculum is vital to establishing an effective judicial education program. The experience level of the participating judges must be considered in the development of courses in order to gain the most benefit possible.³⁰ Then, in addition to considering level of experience, an

28. Li concludes that the model program would "provide for (1) new judges' orientation, (2) continuing education updates, (3) advanced education for experienced judges, and (4) benchbooks, benchguides, videotapes, and audiotapes for self-study and in-court use." Li, *supra* note 1, at 49; *see also* Roper, *supra*, note 26, at 17-24 (suggesting similar programs).

29. *See* Li, *supra* note 1, at 49.

30. Li explains that while the subjects tend to be the same for both new and experienced judges, the depth and focus of the course will vary. He divides a proposed curriculum into the following areas:

Basic courses instruct new judges on the substantive law and procedures governing a particular courtroom proceeding; highlight common problems likely to be encountered in handling that proceeding; and tutor them on the successful and unsuccessful methods used by experienced judges. Basic courses provide new judges with fundamental competence to discharge their duty assignments fairly, correctly, and efficiently.

Intermediate courses help judges maintain their competence by keeping them up-to-date on recent law changes; encourage judges to work together to explore new methods of handling court matters; and promote uniformity among judges in judicial practices and procedures.

Advanced courses broaden the competence and stimulate the growth of experienced judges. They prepare judges to undertake new assignments or brush up their skills when returning to former assignments; resolve unusual problems; and explore alternative approaches that have worked for other experienced judges. They also inform judges about scientific research in new areas of law and social concern that affect how they exercise their judicial discretion. Interdisciplinary seminars promote better understanding, communication, and cooperation with attorneys, prosecutors, probation officers, and correctional officials. Such courses also provide judges with in-depth reviews of relatively narrow areas of substantive and procedural law. They enable mid-career judges to reexamine their judicial philosophies, attitudes, and work habits; to renew their judicial perspectives; and to revitalize their dedication to public service.

effective curriculum model will carefully consider relevant subject matter.³¹

Both of these considerations in developing an effective curriculum emphasize the importance of educating judges to perform all aspects of their assignments. The focus is not primarily on what the judge needs to know, so much as teaching the judge *how to do*.³²

3. Committed Administrative Leadership and Control

My experience is that nothing happens in judicial education without effective leadership.³³ Given the importance of the administrative leadership to the overall success of the education program, the governing organization with the greatest interest in its success should control the program. In this case, the judicial branch of the government has the greatest interest in effective judicial education. Thus, it is logical to place such control under the judiciary.

Li indicates that control of judicial education is often determined by whether the jurisdiction is civil or common law.³⁴ He observes, however, that the "general preference of judges is to be under the chief justice."³⁵ This observation corresponds with the data received in our survey—

Together, the basic, intermediate, and advanced courses comprise a curriculum of career-long education, growth and development. *Id.* at 47; *see also* Roper, *supra* note 26, at 17–22 (same).

31. Claxton focuses on the content that should be the focus of an effective "integrated curriculum." Specifically, the focus should include: (1) specific information (e.g., substantive law, rules of the court); (2) judicial skills (e.g., writing, decision-making, management); (3) issues of authenticity (e.g., attitudes, bias, jurisprudential philosophy, ethics); and (4) personal health and growth (e.g., physical wellness and financial security). Claxton, *supra* note 4, at 14; *see also* Discussion Paper 62, *supra* note 24, at § 3.95 (suggesting topics); Murray Gleeson, *The State of the Judicature* (stating one Australian judicial education program "covers a wide range of topics including trial management, decisionmaking, judgment writing and the use of information technology . . . cultural diversity and gender awareness"), <http://www.hcourt.gov.au/speeches/cj/sta10oct.htm> (last visited Oct. 30, 2000); Report No. 89, *supra* note 24, at § 2.188 (recommending "programs aimed at combating 'burnout' among judicial officers" in addition to topics mentioned in Discussion Paper 62 above).

32. Specifically, Claxton states that the curriculum must place the emphasis on helping judges develop the practical skill and understandings they need to do their work. Claxton, *supra* note 4, at 14.

33. Claxton emphasizes that "vision on the part of administrative leadership" is even more important than funding. *Id.* This is because improving a judicial education program over the long haul requires change that is guided by a "larger vision," thinking of the organization and program as a whole. *Id.*

34. Li observed that in civil law countries, "the judges' schools fall under the ministries of justice [while in] nearly every common law country the judges' schools are under the judicial branch . . ." Li, *supra* note 1, at 47–48.

35. *Id.* at 48; *see also* Gleeson, *supra* note 31 ("[C]ontrol [must be] with the judiciary."); Report No. 89, *supra* note 24, at § 2.165 (quoting Chief Justice Gleeson of Australia's reasons for judicial independence in judicial education programs); Roper, *supra* note 26, at 11.

nearly all responding countries indicated that it was important for the courts to retain control of judicial education. Only two countries responded that it was not important to have courts in charge of judicial education. Some countries, whose judicial education is currently controlled by a Ministry of Justice, indicated a preference to change control to the judiciary.³⁶ Furthermore, several civil law countries indicated that the courts primarily controlled judicial education—in contrast to the previous trend.³⁷ Thus, the data supports my observation that distinctions between civil and common law jurisdictions—as it relates to judicial education—are disappearing. Principles of effective judicial education are generic and apply equally to all countries regardless of their underlying legal system.

4. Modern Learning Methods

Even the best curriculum and most committed administrative leadership will not guarantee an effective judicial education program, unless it is presented to the participants in such a way that they retain most of what is taught and apply it in their judicial capacity. Thus, for effective education, the teaching methods must be established with the participant judge in mind. There are basically two educational models: andragogy and pedagogy. Typically, andragogy refers to the teaching of adults, while pedagogy refers to the teaching of children.³⁸ A brief look at these two models demonstrates why andragogy is generally the preferred method for educating judges—particularly for any professional continued education curriculum.

Pedagogy focuses on the teacher's responsibility to convey information to a relatively passive audience of learners. This is generally accomplished by using lectures and minimal student participation. The emphasis of such education is on transmitting information.³⁹ On the other hand, andragogy focuses on the learner. It is descriptively referred to by Li as the "peer group model."⁴⁰ The experience of the group of learners

36. In Nepal, the current Judicial Service Training Centre is under the control of the Ministry of Law and Justice, and trains all officers of the court, including prosecutors. The Chief Justice, however, indicated that they are "emphasizing that the proposed Judicial Academy should be established under either the Supreme Court or the Judicial Council." Likewise, Thailand indicated that although their Judicial Training Institute is currently under the supervision of the Ministry of Justice, it will eventually be under the administration of the Court.

37. See *supra* note 16 and accompanying text.

38. See Li, *supra* note 1, at 18–19. For more detailed information concerning andragogy and pedagogy, see ARMYTAGE, *supra* note 21, at 105–28. For specific information regarding judges as learners, see *id.* at 129–52.

39. See Li, *supra* note 1, at 18–19.

40. *Id.* at 18, 47–48.

is the primary resource for the teaching,⁴¹ and the teacher is merely a “facilitator of learning, rather than . . . an authority figure who is the repository of all wisdom.”⁴² The process of education under the peer group model focuses on active learning rather than passive learning, and group participation rather than lectures. Furthermore, the emphasis is not just on transmitting information and knowledge, but on “acquisition of the practical skills, techniques, and values to apply that knowledge.”⁴³

Proper application of the “peer group” teaching model will focus on “learning by doing.”⁴⁴ By focusing on participatory education, there is a much better chance that the learner will apply the principles taught in his or her own judicial capacity on a daily basis—thus improving the quality of justice provided by the judiciary.

In developing or reforming an existing judicial education program, all of the learners’ senses should be engaged. Peer group discussion will facilitate talking and listening by the learner, video presentations and demonstrations will engage the learner’s sight, and “hands-on” participatory experience will require the learner to focus all of his attention on the learning process.⁴⁵ Furthermore, participants should be provided with how-to-do-it bench books or guides that will facilitate application of principles taught while acting in their judicial capacity.⁴⁶ Finally, a library of audio and/or video tapes should be established with recordings of past seminars to facilitate individual review and permit judges to study at their own convenience.⁴⁷

41. See ARMYTAGE, *supra* note 21, at 106 (“Adult learning . . . builds on personal experience.”); Dowsett, *supra* note 5 (stating judicial education “must be seen as an opportunity [for judges] to share experiences”); Christine Durham, *Appellate Advocacy as Adult Education*, 2 J. APP. PRAC. & PROCESS 1, 3 (2000) (“Adults bring a lifetime of experience to every learning situation. This experience is a very rich resource for adults’ learning. Good adult education takes advantage of this resource and creates opportunities for adults to reflect on and build on their experience.”) (internal quotation omitted).

42. Claxton, *supra* note 4, at 13.

43. Li, *supra* note 1, at 18.

44. Li reports that the following phrase is attributed to Confucius, the ancient Chinese philosopher:

I hear and I forget,
I see and I remember,
I do and I understand.

Id. at 19.

45. See Dowsett, *supra* note 5 (“There is unlikely to be much room for formal lectures. The emphasis should be on self-teaching in small discussion groups, based on well-planned, practical problems.”); Durham, *supra* note 41, at 4–5 (urging learning by a combination of methods); Li, *supra* note 1, at 19, 46.

46. See Li, *supra* note 1, at 46; Roper, *supra* note 26, at 23–24.

47. See Li, *supra* note 1, at 49. Indeed, because judges are already experienced learners, and because of severe time constraints, judicial education programs should make it easier for judges to self-educate themselves by providing directed learning material for self study. See

5. Faculty

Given the importance of applying the proper teaching model to facilitate retention and application of the principles taught, it is equally important that teachers be chosen carefully. The focus of the education should be on active participation of the learner. As stated earlier, the trainer should be willing and able to draw from the experience of the group as a primary resource of information and knowledge. When selecting the most effective judicial trainers, it must be kept in mind that individuals such as law professors may be excellent experts in general principles of law, and yet know very little about how attorneys and judges apply the law in everyday work, much less the details of topics such as case management and judicial lifestyle.⁴⁸ On the other hand, experienced judges are fully aware of how to apply the law in their capacity and may be the best candidates to facilitate learning of fellow judges in the peer group educational model.⁴⁹

6. Adequate Resources

Even the best thought out curriculum, properly taught and fully supported by committed administrative leadership, will not result in an effective judicial education program without adequate resources. A review of the survey responses indicates that this is, perhaps, the largest stumbling block that most countries, particularly smaller countries, face in developing an effective judicial education program. Consequently, I would like to suggest some possible solutions that could be the starting point for discussions that will lead to creating real resolution to this problem.

The first consideration is how to procure and maintain funding from the legislature. It has been our experience in the United States that once the state or country has established an independent judicial education organization, it then has its own separate line item on the legislature's overall budget. This may be in the budget of the Judiciary or the Ministry of Justice, or it may have a separate funding as a separate entity, such as the Federal Judicial Center in the United States. But the separation from other activities allows responsible, convincing arguments to the legislature as to the necessity of judicial education. Once this occurs, it is easier to keep the organization properly funded. This observation is particularly true when the educational organization has permanent facilities

Kenneth J. O'Connell, *An Outline of a Continuing Education Program for Appellate Judges*, 68 OR. L. REV. 691, 712-16 (1989).

48. See Claxton, *supra* note 4, at 14; Li, *supra* note 1, at 19.

49. See *supra* note 27 and accompanying text.

(rented or designated in an existing courthouse or a permanent judicial education building).

Especially for those countries on a minimal judicial education budget, the first consideration should be finding an efficient way to pool resources. For example, most countries could at least make audio or video tapes of judicial education sessions, conferences, and symposia so additional judges could benefit with negligible added expense. But a single small country may not have the resources to establish a complete audio/video library. In this circumstance, perhaps a regional repository could be established where all participating countries in the region would have access to such materials. Copying audio/visual media is easy and relatively inexpensive, facilitating use by multiple countries. Furthermore, I suspect that there are many resources—i.e., books, audio or video tapes, pamphlets, bench books, etc.—that are produced by larger nations for their own use that could be donated to a regional library and used as a model so smaller nations could more easily develop their own similar materials. If there is a way to share this information in a cost efficient manner, smaller nations may receive a great benefit from materials that the larger nations are already producing.

Another method of pooling resources is to establish regional and sub-regional judicial education programs when individual country programs are not financially feasible. I recognize that there have been some unsuccessful efforts in the past to form joint institutions such as the Pacific Islands Institute for Judicial Administration. Nonetheless, I believe that it is time to renew efforts to explore this as a cost efficient method of providing effective education to the judges of the Asia/Pacific region. Perhaps the experience of certain island jurisdictions that established a "South Pacific Judicial Training Centre" will be helpful. Another example of regional cooperation was the establishment of the Mekong Delta Institute of Judicial Administration. The countries of Thailand, Lao PDR, Cambodia, and Vietnam united to assist one another in judicial improvements. It will be interesting to observe whether this organization assists in improving judicial education in this region. Finally, the Judicial Commission of New South Wales in Australia, in conjunction with the Australian Institute of Judicial Administration, allows judges from other countries to attend its annual orientation programs for new judges. Thus far, attendees include judges from Papua New Guinea, the Solomon Islands, Indonesia, and Hong Kong.⁵⁰ Perhaps this program could be a model for further regional cooperation.

50. See Gleeson, *supra* note 31.

Advanced technology may also assist in efforts to pool judicial education resources. In addition to audio/visual recordings mentioned above, the ever expanding Internet may prove to be a cost effective method of sharing information between countries in the Asia/Pacific region. The Internet has provided a forum where publications and information may be shared quickly, efficiently, and at a very low cost. For example, in the United States, the Judicial Education Reference, Information, and Technical Transfer Project (JERITT), a national clearinghouse for information on continuing judicial education for judges, judicial officers, and court personnel, has a web site with numerous resources.⁵¹ Perhaps consideration should be given to creating a similar site for the Asia/Pacific region. Some organizations from countries in the region have already established Internet sites on related subjects.⁵² By using the ever growing Internet, publications and speeches presented at seminars and conferences can be made available to judges who are not otherwise able to attend.⁵³

Another recommended form of electronic media is CD-ROM disc. For instance, Li suggests that bench guides be placed on CD-ROM discs for use on a judge's personal computer.⁵⁴ While his recommendation appears to be based on ease of use as compared to a similar guide published in printed form, CD-ROM discs may also be an economically beneficial way to share both bench guides and other judicial education material due to the relatively low cost of making copies of such discs. These various forms of sharing information should be explored to find the most cost efficient method of pooling resources and providing information to countries with relatively fewer available resources.

Even where pooling of resources is not feasible, each nation, regardless of size, could look for educational resources that may have

51. See *JERITT Home Page*, at <http://jeritt.msu.edu> (last visited Oct. 30, 2000).

52. See *infra* Appendix III (containing selected bibliography of judicial education resources on the Internet).

53. For example, the Judicial Conference of Australia has an Internet site providing full copies of papers presented at various Symposia. See *Judicial Conference of Australia*, at www.law.monash.edu.au/JCA (last visited Oct. 30, 2000). Justice J.A. Dowsett's address "*Judicial Education*," *supra* note 5, is provided in full at this locale.

One advantage of the Internet as a judicial education repository is that materials can be transmitted in textual format or in audio/visual format or both. For instance, the New Mexico Judicial Education Center website contains judicial education material on judicial ethics that can be reviewed either in text or on video. See New Mexico Judicial Education Center, *Interactive Training: Judges Ethics*, at <http://jec.unm.edu/training/Ethics/home.html> (last visited Oct. 30, 2000). If judicial education seminars are taped, they can be digitized and saved on the Internet for later viewing.

54. See Li, *supra* note 1, at 50.

previously gone unexplored. For example, as I have already discussed, most topics relevant to a judge's proper education are more effectively taught by a fellow experienced judge—regardless of formal education that the more experienced judge may have previously received. It is important not to overlook the experience in the judiciary when looking for educators.⁵⁵

7. Program Evaluation

We are constantly learning new ways to teach and disseminate information. To be fully effective in the future, any judicial education program must be adaptable. The program must have a built-in method of self evaluation—particularly from the standpoint of the participating judges.⁵⁶ Leaders must be open to adopting new methods of teaching and new technologies in presenting and publicizing information. Cross-fertilization is important: each country must learn from the other's experiences.⁵⁷ It is easier to build on the efforts and ground work that has been laid in the form of many established programs. But always, there must be willingness to evaluate based upon where you want judicial education to be in the future.

CONCLUSION

As countries establish new judicial education programs, or modify existing programs, they should carefully consider where they want to be in the future and identify the most effective methods of reaching their goals. To be fully effective, they must find creative solutions to the roadblocks that have impeded their progress in the past as they move to a future of a better trained judiciary. They must take advantage of modern technology, but even more important, they must learn to recognize and utilize the resources readily available in each of their countries—in particular the experience of their own judges. Countries must find more efficient methods of sharing information and pooling resources so that they can take advantage of the experience of neighboring countries.

In conclusion, I emphasize once again that effective principles of judicial education are generic and apply equally to all judicial systems

55. See *supra* note 27 and accompanying text.

56. For general information concerning evaluating judicial education programs, see ARMYTAGE, *supra* note 21, at 183–214.

57. See Shirley S. Abrahamson, *The Consumer and the Courts*, 74 JUDICATURE 93, 95 (1990) (“We can learn from the legal systems of other countries.”); Li, *supra* note 1, at 49.

no matter the size or type of underlying legal system. As countries adopt the principles discussed above and apply them as appropriate in their unique circumstance, the result will be better trained judges and an increased quality of justice.

APPENDIX I
SURVEY ON JUDICIAL EDUCATION AND TRAINING
IN ASIA AND THE PACIFIC

1. Approximately how many judges are there in your country:
 - a. at the trial level?
 - b. at the appellate level?
2. Does your country have a separate organization for training of judges?
 - a. What is it called (e.g., Institute of Judicial Administration, Judicial Training Academy, etc.)?
 - b. In what city is it located?
 - c. How is the head of the organization (director) selected? What is the criteria used to select a director? What is the director's term of service?
 - d. Is the director of your country's judicial training center a judge?
 - e. If the current director is a judge, is the judge a trial or appellate judge?
 - f. If the current director is not a judge, what is the background and training of the individual who holds that position?
 - g. How large is the non-teaching staff?
 - h. How many teachers are permanently assigned to the organization? Of these, how many are:
Judges?
Non-Judges?
 - i. How much is the annual budget?
3. Does your country have a permanent training building?
 - a. If yes, describe it.
 - b. If no, what facilities are used for training?
4. Does your country's training facility produce written judicial aids?
 - a. Law summaries?
 - b. "Bench books"?

- c. Other? (describe)
 - d. Describe written judicial aids produced by any other body.
 - e. Can copies be made available at the 1999 Conference in Seoul?
5. Does your country's training facility have:
- a. A research library?
 - b. An audio-visual library?
 - c. Video, audio, or written copies of prior seminars given?
6. Does your country's training facility have the capacity to do research to solve problems confronting the judiciary?
- a. If yes, describe.
7. Is there a regular training program for *new trial* judges of *general jurisdiction*?
- a. How long?
 - b. Who teaches it?
 - c. What subjects are covered?
 - d. When is it given in relation to the beginning of judicial service:
 - before?
 - within 3 months service?
 - later?
8. Is there a regular training program for *new trial* judges of courts *lower* than those of *general jurisdiction*?
- a. How long?
 - b. Who teaches it?
 - c. What subjects are covered?

- d. When is it given in relation to the beginning of judicial service:
 - before?
 - within 3 months service?
 - later?
- 9. Is there a regular training program for *new appellate* judges?
 - a. How long?
 - b. Who teaches it?
 - c. What subjects are covered?
 - d. When is it given in relation to the beginning of judicial service:
 - before?
 - within 3 months service?
 - later?
- 10. Is there additional training provided during their career for judges at all level?
 - a. Describe for trial judges.
 - b. Describe for appellate judges.
 - c. Are judges used for this training?
 - (1) What percent of training is done by judges?
 - (2) Do you use retired judges for training?
To what extent?
 - d. Describe the courses provided.
- 11. What are your future plans for developing judicial education and training?
- 12. Would you favor training for your director, such as in meetings of all judicial training directors in Asia and the Pacific?
- 13. Who does the judicial training at your country's training programs?
 - Judges?
 - Law professors?
 - Other (describe)

- a. What criteria is used to select the trainers?
 - b. Are the trainers taught how to teach? If yes, describe how.
14. Does your country's judicial training center include classes or courses for court staff/court administrators?
- a. If the judicial training center does include classes or courses for court staff:
 - (1) what is the nature of the training?
 - (2) how often is it provided?
 - (3) what is the background of the faculty members for such training?

Describe any other characteristics of this kind of training.

- b. If the judicial training center does not include classes or courses for court staff, when the training center was established and in the planning process, was it ever contemplated that court staff would be included? Are there plans to expand the judicial training center curriculum to include court staff?
15. Outline the courses given in 1997, their length, the number of judges attending, the subjects given, and the title of the teachers or trainers who made the presentations. (Use another page if necessary.)
16. Is your country's judicial training under the courts or the Ministry of Justice?
- a. Considering the Beijing Statement on Independence of the Judiciary, do you believe it is important to have the courts in charge of judicial training?
17. Describe how the judicial training organization is governed, i.e., who makes appointments to the organization, and who is ultimately responsible for the training?

APPENDIX II
SUMMARY OF DATA ON JUDICIAL EDUCATION AND TRAINING
IN ASIA AND THE PACIFIC

NATION	# OF JUDGES		ORGANIZATION/STAFF			RESOURCES				NEW JUDGE TRAINING			CONTINUE EDUCATION	TRAINERS	CONTROL
	TRIAL	APP.		ADMIN.	TEACH	PERM. FACILITY	WRITTEN	BENCH BOOKS	RECORD PRIOR SEMINARS	A/V. LIBRARY	LOWER	GENERAL	APPELLATE		
India	7,350	5,598	Y	198*	20*	Y	Y	Y	Some		Yes	Yes	Yes	Judges, lawyers, experts	High Courts, state government
				*Totals of All States							This information varies between states within India				
France (Papeete)	5,400	1,800	Y		21	Y	Y		Y	Y	No	Yes 31 month	No: 1 week optional	Judge (40%) sociologists, philosophers, physicians, accountants, lawyers	Ministry of Justice
Indonesia	4,500	500	Y	25	10	N	Y	Y	Y	N	No	Yes 5 Days	Yes 5 Days	Judges (10%) & Experts	Courts
Japan	2,200	280+	Y	80	60	Y	Y	Y	Y	N	Yes 2 month	Yes 1 week	No	Judges (80%) Law Professor	Court

APPENDIX II (continued)

NATION	# OF JUDGES		ORGANIZATION/STAFF				RESOURCES				NEW JUDGE TRAINING			CONTINUE EDUCATION	TRAINERS	CONTROL
	TRIAL	APP.		ADMIN.	TEACH	PERM. FACILITY	WRITTEN	BENCH BOOKS	RECORD PRIOR SEMINARS	A/V. LIBRARY	LOWER	GENERAL	APPELLATE			
Thailand	1,993	464	Y	96	7	Y	Y	Y	Y	Y	yes 4 month	Yes 1 month	Yes 44 days	Yes	Retired Judge, Train'g Officer	Ministry of Just. but, will be under Court control
Philippines	1,483	66	Y	35	2 full 10 part	Y	Y		Y	N	Yes 5 Days	Yes 5 Days	Yes 1 Day	Yes	Judges (50%) Retired Judges Professors	Court
Korea	1,090	281	Y	137	41	Y	Y		Y		No	Yes 1 week	No	Yes	Judges (60%) Experts	Courts
Pakistan	938	518	Y	45	2	Y	N	N	Y	N	N/A	Yes 8 Week	Yes 8 Week	Yes	Judges (60%) Professors & Experts	Autonomous & "Board of Gov." Judges (Court)
Australia	751	126	Y	31	0	Y	Y	Y	Y	Y	Yes 1 week	Yes 1 week	Yes 1 week	Yes	Judges (80%) Professors & Experts	Independent Commission/ Courts

APPENDIX II (continued)

NATION	# OF JUDGES		ORGANIZATION STAFF			RESOURCES				NEW JUDGE TRAINING			CONTINUE EDUCATION	TRAINERS	CONTROL
	TRIAL	APP.		ADMIN.	TEACH	PERM. FACILITY	WRITTEN	BENCH BOOKS	RECORD PRIOR SEMINARS	A/V. LIBRARY	LOWER	GENERAL	APPELLATE		
Bangladesh	400	39 +5	Y	6		N	Y	Y	N	N	N/A	Yes 4 month	Yes 3 weeks	Judge 70-80% Experts	Managing Bdr. (Courts)
Malaysia	247	18	Y	18	0	Expect in 2000	N	N	Y	Y		Yes, 4 days	No	Judges (30%) Lawyers	Prime Minister
New Zealand	151	7	Y	3	0	N	Y	Y	Y	Y	Yes 2 Week	Yes 1 Week	Yes 1 Week	Judges (80%) Professors & Experts	Indep. Inst./ Courts (funded)
Kiribati	150	1	N	0	0	N	N	Y	N	N	No	No	No		Courts
Hong Kong	144	14	Y	6	0	N	Some	Y	Y	N	Yes 2.5 Day	No	No	Judges (90%) & some Prof.	Courts
Nepal	120	128	Y	19		N	Y	N		N	No	No	No	Judges, Lawyers & Teachers	Ministry of Law (Want under judiciary)
				Trained w/prosecutors							Plan to Establish Judicial Academy				

APPENDIX II (continued)

NATION	# OF JUDGES		ORGANIZATION/STAFF			RESOURCES				NEW JUDGE TRAINING			CONTINUE EDUCATION	TRAINERS	CONTROL
	TRIAL	APP.		ADMIN.	TEACH.	PERM. FACILITY	WRITTEN	BENCH BOOKS	RECORD PRIOR SEMINARS	A/V. LIBRARY	LOWER	GENERAL	APPELLATE		
Singapore	67	20	N			N					Judges "expected to continue to learn on the job"				
Micronesia		20	N			N			N	N	No	No	No	No funding	
Tonga	12	1 3 nr	N			N	N	N	N	N	No	No	No	Yes: 1 week per year	Courts
Fiji	11	2 13nr	N			N					No, but, New Judicial Education Committee				
Seychelles	4	5	N	0	0	N	N	N	N	N	Only by attending International Meetings				
Solomon Islands	4	7	N			N	N	N	N	N	No	No	No	Yes: New Council	Courts
Brunei	5	4	N				N	N	N	N	No	No	No	No	
Samoa	3	0	N			N	N	N	N	N	No	No	No	Yes: New Zealand	
Nauru	3 visiting	0				N									
Maldives	Not answered		Y			Y	N	N	N	N		Yes 3 months	Yes	Chief Judge, Judges	
Lao PDR	Not answered	N			N						Ministry of Justice is establishing a "Judicial Training Institute"				
											Will be Judges & Experts				

APPENDIX III

SELECTED JUDICIAL EDUCATION AND TRAINING WEBSITES
ASIA/PACIFIC AUSTRALIAN INSTITUTE OF
JUDICIAL ADMINISTRATION INC.

<http://www.aija.org.au>

Australian Law Reform Commission

<http://www.austlii.edu.au/au/other/alrc/>

(contains discussion papers relating to creation of judicial
education programs)

Centre for Judicial Studies

<http://www.educatingjudges.com>

(for-profit judicial education consultancy based in Australia)

High Court of Australia

<http://www.hcourt.gov.au/speeches.htm>

(contains speeches of judges relating to
judicial education topics)

Judicial Commission of New South Wales

<http://www.judcom.nsw.gov.au>

Judicial Conference of Australia

<http://www.law.monash.edu.au/JCA>

Malaysian Legal and Judicial Training Institute

<http://spl.pnm.my/~ilkap/>

Thailand Office of Judicial Affairs

<http://www.oja.go.th/NNindex.htm>

Canada, United States, United Kingdom

Canadian Judicial Council

<http://www.cjc-ccm.gc.ca/english/index.htm>

Commonwealth Judicial Education Institute

<http://is.dal.ca/~cjei>

Federal Judicial Center

<http://www.fjc.gov>

Judicial Education Reference, Information, and Technical

Transfer Project (JERITT)

<http://jeritt.msu.edu>

<http://jeritt.msu.edu/Bulletins%20PDF/bul8-4%20oct-dec97rev.pdf> (contains comprehensive list of judicial education websites in the United States)

Judicial Studies Board

<http://www.cix.co.uk/~jsb/index.htm>

National Judicial College

<http://www.judges.org/>